BEYOND THE AUCTION DEBATE: HOW INDIA'S ADMINISTRATIVE ASSIGNMENT OF SATELLITE SPECTRUM GIVES EFFECT TO THE ITU'S EQUITABLE ACCESS MANDATE

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ABSTRACT

India's satellite broadband market stands at the threshold of commercial launch, and it does so on the strength of a framework that the Government has built with considerable care. The Telecommunications Act 2023 settles the mode of assignment by placing satellite-based services in the First Schedule, which removes them from the default rule of auction. The pricing exercise that followed has given that framework a simple, balanced and administrable charge, reflecting a consultative process between the executive and the regulator. This paper argues that the public debate on auction versus administrative assignment asks the wrong question, since the rights that matter in satellite communication are created at the International Telecommunication Union. Those rights arise through filing, coordination and recording rather than through any domestic sale, and the ITU Constitution requires them to be used rationally, efficiently and economically. The paper demonstrates that India's choice of administrative assignment gives effect to that obligation in a manner consistent with the practice of the United States, Brazil and the European Union. It contends that the residual uncertainty surrounding the framework lies not in any legislative or executive choice but in the judicial treatment of spectrum after the 2G judgment. That judgment applied reasoning drawn from terrestrial spectrum to a resource that the Court did not examine, and the Supreme Court has not yet had occasion to revisit it. The paper concludes that the Telecommunications Act and the norms issued by IN-SPACe already equip the Government to carry its framework forward on the foundations it has laid. Deployment-linked assignment, a default framework for sharing between non-geostationary systems and a spectrum-linked charge would each build on choices the Government has already made.

Keywords: satellite spectrum, ITU Radio Regulations, Telecommunications Act 2023, non-geostationary constellations, equitable access, administrative assignment.

I. INTRODUCTION

India's satellite broadband market stands at the threshold of commercial launch, following a consultative process that the Department of Telecommunications **['DoT']** and the Telecom Regulatory Authority of India **['TRAI']** have conducted since 2024. TRAI opened a consultation in September 2024 on the terms for assigning spectrum to satellite-based commercial services, after the DoT had sought its views on the subject.[1] In May 2025, TRAI recommended that the spectrum be assigned administratively for up to five years against a charge of 4% of adjusted gross revenue **['AGR']**. It also proposed an additional annual charge of ₹500 per urban subscriber for non-geostationary **['NGSO']** fixed-satellite services.[2] The DoT engaged closely with these recommendations through a back-reference in November 2025 proposing a 5% levy, to which TRAI responded in December 2025. This iterative exchange between the executive and the regulator is itself a mark of the care with which the framework has been assembled.[3]

In September 2026, the Digital Communications Commission **['DCC']** reportedly approved a charge of 5% of AGR, reduced to 4% for rural and remote areas, for a term of five years extendable by two. It did not adopt the per-subscriber levy or the terminal subsidy that TRAI had proposed, since no mechanism was yet in place to implement either of them. Cabinet approval, the formal assignment of spectrum and security clearances are the remaining steps before Starlink, Eutelsat OneWeb, Jio Satellite and Amazon Leo can begin commercial operations. Each of these steps reflects the Government's evident commitment to combining wider market access with the protection of national security.[4]

Commentary on this process has largely been organised around a single binary, namely whether

[1] Telecom Regulatory Auth. of India, Consultation Paper on Terms and Conditions for the Assignment of Spectrum for Certain Satellite-Based Commercial Communication Services (2024).
[2] Telecom Regulatory Auth. of India, Recommendations on Terms and Conditions for the Assignment of Spectrum for Certain Satellite-Based Commercial Communication Services (2025); Press Release, Press Info. Bureau, *TRAI Releases Recommendations on "Terms and Conditions for the Assignment of Spectrum for Certain Satellite-Based Commercial Communication Services"* (May 9, 2025), https://www.pib.gov.in/PressReleasePage.aspx?PRID=2127866.
[3] *TRAI Submits Response to DoT's Back-Reference on Spectrum Assignment for Satellite-Based Services*, Legality Simplified (Dec. 2025), https://www.legalitysimplified.com/trai-submits-response-to-dots-back-reference-on-spectrum-assignment-for-satellite-based-services/; *Satcom Rules Set for Overhaul: No User Cap, Spectrum Fee May Rise to 5% AGR*, Outlook Bus. (Nov. 20, 2025), https://www.outlookbusiness.com/corporate/satcom-rules-set-for-overhaul-no-user-cap-spectrum-fee-may-rise-to-5-agr.
[4] Gulveen Aulakh, *DoT Clears the Decks for Satellite Broadband Services in India*, Bus. Standard (Sept. 8, 2026), https://www.business-standard.com/industry/news/trai-clears-the-decks-for-satellite-broadband-services-in-india-126090801317_1.html.

satellite spectrum ought to be auctioned or assigned administratively. That binary owes its legal pedigree almost entirely to the Hon'ble Supreme Court **['SC']** rather than to any choice made by Parliament or the executive. In the 2G judgment, the SC described a duly publicised auction as "perhaps the best method" for alienating natural resources.[5] However, it did so while examining terrestrial spectrum bundled with access licences, and without any occasion to consider a resource that is shared, non-exclusive and coordinated internationally. When the Union sought in April 2024 to clarify that the judgment did not bar administrative assignment in specified cases, including space communication, the Registry declined even to receive the application.[6] The SC has therefore never been called upon to apply its reasoning to satellite spectrum, and the uncertainty that surrounds the subject is judicial in origin.

The binary also has a commercial pedigree, since terrestrial operators have argued that satellite providers competing for the same urban customers should acquire spectrum on the same terms. The Government's position, articulated by the Minister of Communications, Jyotiraditya Scindia, is instead that spectrum for satellite communication "is shared spectrum, and cannot be auctioned".[7] However, scratching beneath the surface of this debate reveals that the binary asks the wrong question, because Parliament has already answered the question of mode with considerable foresight. Section 4(4) of the Telecommunications Act 2023 **['Telecom Act']** makes auction the default method of assignment but excludes the entries listed in the First Schedule. Entry 16 of that Schedule places satellite-based services, including Global Mobile Personal Communication by Satellites **['GMPCS']**, within the administrative process.[8]

The more interesting question, however, is how this legislative choice gives effect to the obligations India owes as a Member State of the International Telecommunication Union **['ITU']**. Those obligations require radio frequencies and associated orbits to be used "rationally, efficiently and economically" so that countries may have "equitable access" to them.[9] The same question reappears domestically under Article 14, since the SC has held that

[5] Ctr. for Pub. Interest Litig. v. Union of India, (2012) 3 S.C.C. 1, ¶ 96 (India).
[6] *"Misconceived": Supreme Court Registry Rejects Centre's Application to Clarify 2G Case Verdict for Administrative Allotment of Spectrum*, LiveLaw (May 1, 2024), https://www.livelaw.in/top-stories/supreme-court-registry-rejects-centres-application-to-clarify-2g-case-verdict-administrative-allotment-spectrum-256687; Supreme Court Rules, 2013, Order XV, Rule 5 (India).
[7] Manish Singh & Jagmeet Singh, *India Backs Musk in Satellite Spectrum Allocation Row*, TechCrunch (Oct. 15, 2024), https://techcrunch.com/2024/10/15/india-backs-musk-in-satellite-spectrum-allocation-row; *Satcom Framework: TRAI's Recommendations on Spectrum Assignment for Satellite Services*, tele.net (June 13, 2025), https://tele.net.in/satcom-framework-trais-recommendations-on-spectrum-assignment-for-satellite-services/.
[8] Telecommunications Act, No. 44 of 2023, § 4(4), sch. 1, entry 16 (India).
[9] Constitution of the International Telecommunication Union art. 44(2), Dec. 22, 1992, S. Treaty Doc. No. 104-34, 1825 U.N.T.S. 143.

a method of allocation other than auction is permissible where it is fair, transparent and directed at the common good.[10] The Government's framework, it is submitted, is well placed to satisfy both the international standard and the constitutional one, and this paper sets out why.

This paper argues that India's administrative model is not merely defensible but is a well-calibrated application of the international regime, which does not auction orbital and spectrum resources. The ITU instead allocates those resources through a process of filing, coordination and recording that operates broadly on a first-come, first-served basis. It complements that process with deployment milestones, due diligence obligations and a standing commitment to the special needs of developing countries. The Government has already reflected the same philosophy in its own instruments, whether through the capacity-based limits proposed by the DoT or the concessional rate for rural and remote areas. The same philosophy appears in the use-it-or-lose-it norms that the Indian National Space Promotion and Authorisation Centre **['IN-SPACe']** applies to Indian orbital resources.

The paper describes the Government's approach as one of administrative stewardship, in which the State assigns a shared resource on behalf of the people while retaining the instruments needed to ensure its use. It contends that the only real source of uncertainty lies in the judicial treatment of spectrum after 2G, which applied reasoning built for exclusive terrestrial spectrum. The legislative and executive choices themselves rest on firm ground, whereas the SC has not yet had occasion to revisit a line of reasoning that was never designed for satellites.

This paper is structured as follows: Part II sets out the international architecture, explaining how rights in satellite spectrum arise at the ITU and how the Outer Space Treaty bears on them. It also traces how the equitable access principle has developed from the geostationary arc to low Earth orbit, where it has acquired fresh importance. Part III examines the Indian framework under the Telecom Act and the pricing exercise that followed, before assessing the 2G jurisprudence and the norms of IN-SPACe. Part IV explains how the Government's framework already embodies the efficiency and equity objectives of the international regime, and how its existing instruments can carry them forward. Part V draws comparative lessons from the United States, Brazil and the European Union, whereas Part VI concludes with a set of measures for the next phase.

[10] In re Natural Res. Allocation, Special Reference No. 1 of 2012, (2012) 10 S.C.C. 1 (India).

II. ORBITS, FREQUENCIES AND FILINGS: THE INTERNATIONAL ARCHITECTURE

A. The ITU's Model of Rights Creation

The foundational provision is Article 44(2) of the ITU Constitution, which governs how Member States are to approach the use of frequency bands for radio services. It requires them to "bear in mind that radio frequencies and any associated orbits, including the geostationary-satellite orbit, are limited natural resources and that they must be used rationally, efficiently and economically, in conformity with the provisions of the Radio Regulations, so that countries or groups of countries may have equitable access to those orbits and frequencies, taking into account the special needs of the developing countries and the geographical situation of particular countries". Article 44(1) adds that Member States shall endeavour to limit the number of frequencies and the spectrum used to the minimum essential to provide the necessary services.[11] Two features of this text matter for present purposes, the first being that it treats efficiency and equity as co-equal objectives rather than treating equity as an afterthought. The second is that it ties both objectives to the Radio Regulations **['RR']**, which supply the procedures through which those objectives are to be realised in practice.

Those procedures create rights in a manner quite different from a domestic licence, because a national administration seeking to operate a satellite system must first file its characteristics with the ITU. The administration then coordinates with administrations whose existing or planned systems may be affected, and notifies the assignments for recording in the Master International Frequency Register **['MIFR']**. A recorded assignment with a favourable finding acquires the right to international recognition, which means that other administrations must take it into account to avoid harmful interference.[12] Priority in coordination follows the date on which the Radiocommunication Bureau receives the relevant request, and this is why the regime operates in substance on a first-come, first-served basis. Commentators have accordingly described the system in those terms for most bands outside the planned bands, while noting the burdens it places on later entrants.[13]

[11] Constitution of the International Telecommunication Union art. 44(1), (2), Dec. 22, 1992, S. Treaty Doc. No. 104-34, 1825 U.N.T.S. 143.
[12] Int'l Telecomm. Union [ITU], *Radio Regulations* arts. 8 (No. 8.3), 9, 11 (2024 ed.).
[13] Audrey L. Allison, The ITU and Managing Satellite Orbital and Spectrum Resources in the 21st Century (2014); Francis Lyall & Paul B. Larsen, Space Law: A Treatise ch. 9 (2d ed. 2018).

The regime also carries its own discipline against the occupation of resources that are not used, since an assignment to a space station must be brought into use within seven years. That period runs from the date on which the Bureau receives the relevant filing, failing which the filing ceases to be taken into account.[14] Administrations must also submit due diligence information identifying the spacecraft manufacturer and the launch service provider, a requirement introduced to deter filings with no real prospect of implementation.[15] The significance of these rules lies in their premise, since the ITU's refusal to price orbital and spectrum resources is coupled with obligations that make continued priority depend on actual use. Non-market assignment and use-based conditions are therefore, in the international regime, two halves of a single and carefully balanced design.

The core issue, herein, is where the relevant right is created, because the right to operate a constellation in a given band is secured by its notifying administration at the ITU. That notifying administration also secures the constellation's protection from interference by later systems, and for a foreign constellation it is not India. What India controls is the territorial layer, since no transmitting station may be established or operated by a private enterprise without a licence from the government to which it is subject.[16] Article 6 of the ITU Constitution further obliges Member States to impose observance of the Constitution and the RR on the operating agencies that they authorise.[17] This translates into the proposition that an Indian assignment to a foreign NGSO operator is, in legal substance, a territorial permission to operate gateways and user terminals in India. That permission is layered over a space segment right that has been created and protected elsewhere, which is the feature that distinguishes it from any terrestrial licence.

This distinction exposes the conceptual weakness in the argument for auctions and confirms the soundness of the approach that the Government has taken. An auction is a mechanism for pricing an exclusive right, and terrestrial access spectrum can be auctioned because the State can exclude every other operator from a block in a service area. India, however, cannot exclude another coordinated constellation from the same Ku-band or Ka-band frequencies in the space segment, and can only decline to permit that constellation to serve Indian users. TRAI correctly

[14] Int'l Telecomm. Union [ITU], *Radio Regulations* art. 11, No. 11.44 (2024 ed.).
[15] Int'l Telecomm. Union [ITU], Res. 49, *Administrative Due Diligence Applicable to Some Satellite Radiocommunication Services*, *in* 3 *Radio Regulations* (2024 ed.).
[16] Int'l Telecomm. Union [ITU], *Radio Regulations* art. 18, No. 18.1 (2024 ed.).
[17] Constitution of the International Telecommunication Union art. 6, Dec. 22, 1992, S. Treaty Doc. No. 104-34, 1825 U.N.T.S. 143.

recognised this when it recommended assignment on a shared and non-exclusive basis, with authorised entities required to "coordinate among themselves in good faith".[18] An auction in these conditions would sell a licence to use frequencies that the successful bidder must still share with every other authorised system. While that does not render an auction impossible, it does mean that the price discovered would not be a price for scarcity in the sense contemplated by the 2G judgment.

B. Equitable Access: From the Geostationary Arc to Low Earth Orbit

The equitable access principle has a history worth recalling, because the anxieties that produced it have returned in a new orbital regime and with greater force than before. In 1976, a group of equatorial States asserted sovereignty over the segments of the geostationary orbit above their territories in the Bogotá Declaration. However, the claim was widely regarded as inconsistent with the non-appropriation principle in Article II of the Outer Space Treaty **['OST']**, and it did not succeed.[19] The concern that underlay it was that early-arriving developed States would occupy the most valuable orbital positions before developing States were in a position to use them. That concern was addressed through the ITU, since the planned bands under Appendices 30, 30A and 30B of the RR set aside orbital positions and frequencies for every country.[20]

No comparable plan exists for NGSO systems, and the rapid growth of large constellations in low Earth orbit has reproduced the geostationary problem in a sharper form. Coordination priority obtained through early filings can shape the conditions of entry for every later system in the same bands, whether or not the early filer ever deploys. The scale of filing activity illustrates the point, as a study in *Science* identified more than one million satellites filed with the ITU between 2017 and 2022.[21] Rwanda's Cinnamon-937 filing alone described 327,320 satellites across twenty-seven orbital shells, which shows how far a filing can run ahead of any realistic deployment.[22]

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[18] Press Release, Press Info. Bureau, *TRAI Releases Recommendations on "Terms and Conditions for the Assignment of Spectrum for Certain Satellite-Based Commercial Communication Services"* (May 9, 2025), https://www.pib.gov.in/PressReleasePage.aspx?PRID=2127866.

[19] Declaration of the First Meeting of Equatorial Countries, Dec. 3, 1976; Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies art. II, Jan. 27, 1967, 18 U.S.T. 2410, 610 U.N.T.S. 205; Francis Lyall & Paul B. Larsen, Space Law: A Treatise (2d ed. 2018).

[20] Int'l Telecomm. Union [ITU], *Radio Regulations* apps. 30, 30A, 30B (2024 ed.).

[21] Andrew Falle et al., *One Million (Paper) Satellites*, 382 Science 150 (2023).

[22] *Rwanda Has Submitted ITU Filing for 27 Orbital Shells of 327,320 Satellites*, Space in Afr. (Oct. 14, 2021), https://spaceinafrica.com/2021/10/14/rwanda-has-submitted-itu-filing-for-27-orbital-shells-of-327320-

The ITU's response to this warehousing risk was Resolution 35, adopted at the World Radiocommunication Conference **['WRC']** of 2019, which applies to NGSO systems in specified bands. It requires them to deploy 10% of the notified satellites within two years after the end of the regulatory period for bringing into use, 50% within five years and 100% within seven.[23] Where a milestone is missed, the recorded number of satellites is reduced by reference to actual deployment, so that the MIFR more closely reflects what is actually in orbit. Even this mechanism, however, has been criticised in the literature as insufficient to deter the practice of over-filing by administrations.[24] Recent scholarship has accordingly argued that the principle of taking into account the special needs of developing countries must be activated in the distribution of low Earth orbit resources.[25]

The relevance of this history to India is direct, since India is at once a developing State and one of the largest prospective markets for NGSO services anywhere in the world. Its influence under the international regime is limited because it does not control the filings of foreign constellations, but its bargaining position at the point of market access is considerable. The terms on which India permits foreign and domestic systems to serve Indian users are therefore the principal means through which it can advance the objectives of Article 44.

C. The Outer Space Treaty Overlay

The OST adds further layers to this analysis, the first being Article I, which declares outer space free for exploration and use by all States on a basis of equality. The second is Article II, which prohibits national appropriation "by claim of sovereignty, by means of use or occupation, or by any other means".[26] The recording of an assignment in the MIFR therefore confers a right of international recognition for a use, but it does not confer any property in an orbit. The same concern appears to inform the position of the United States, which auctions terrestrial spectrum extensively but prohibits its regulator from auctioning spectrum used for

satellites/.

[23] Int'l Telecomm. Union [ITU], Res. 35 (WRC-19), *A Milestone-Based Approach for the Implementation of Frequency Assignments to Space Stations in a Non-Geostationary-Satellite System in Specific Frequency Bands and Services*, *in* 3 *Radio Regulations* (2024 ed.); *ITU Members Agree to New Milestones for Non-Geostationary Satellite Deployment*, Int'l Telecomm. Union (Jan. 2020), https://www.itu.int/hub/2020/01/itu-members-agree-to-new-milestones-for-non-geostationary-satellite-deployment/.

[24] Andrew Falle et al., *One Million (Paper) Satellites*, 382 Science 150 (2023).

[25] Jinxuan Li & Jinyuan Su, *Activating the Principle of "Taking into Account the Special Needs of the Developing Countries" in the Distribution of Low Earth Orbit Frequency/Orbit Resources*, 50 Telecomm. Pol'y 103082 (2026).

[26] Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies arts. I, II, Jan. 27, 1967, 18 U.S.T. 2410, 610 U.N.T.S. 205.

international satellite services.[27] The same provision directs the President to oppose such auctions at the ITU, since auctioning an orbital location comes close to selling a resource that no State can appropriate. India's legislative choice therefore sits comfortably within an established international tradition, and it reflects a sound understanding of the non-appropriation principle.

Article VI makes States internationally responsible for national activities in outer space, including those of non-governmental entities, and requires authorisation and continuing supervision by the "appropriate State". Article IX requires States to act with due regard to the interests of other States and to consult where a planned activity would cause potentially harmful interference.[28] For a foreign constellation serving India, the appropriate State for the space segment is the State under whose jurisdiction the operator acts, and not India. China's notification to the United Nations in December 2021 concerning close approaches between Starlink satellites and the China Space Station illustrates the point. It treated the matter as engaging the responsibility of the United States, rather than that of any State in which Starlink serves users.[29]

The parallel is that India, as a market State, stands in the same position under the OST as it does under the RR, with no direct control over a foreign space segment. It does, however, have complete control over whether and on what conditions that space segment may serve Indian territory. The terms of domestic assignment are therefore India's principal instrument for giving effect to its interests under Articles I, VI and IX, and the Government has rightly treated them as such.

III. ADMINISTRATIVE BY STATUTE: THE INDIAN FRAMEWORK AND ITS CONSTITUTIONAL FOOTING

A. Section 4(4), the First Schedule and the Pricing Exercise

The Telecom Act declares the Central Government to be "the owner of the spectrum on behalf of the people" and requires it to assign spectrum in accordance with the Act. Section 4(4)

[27] 47 U.S.C. § 765f (2018).
[28] Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies arts. VI, IX, Jan. 27, 1967, 18 U.S.T. 2410, 610 U.N.T.S. 205.
[29] Comm. on the Peaceful Uses of Outer Space, *Information Furnished in Conformity with the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies*, U.N. Doc. A/AC.105/1262 (Dec. 6, 2021).

provides that the Central Government "shall assign spectrum for telecommunication through auction except for entries listed in the First Schedule for which assignment shall be done by administrative process". Section 4(5) permits the First Schedule to be amended where auction "is not the preferred mode of assignment due to technical or economic reasons", among other grounds. The requirement that every such notification be laid before Parliament builds democratic oversight into the exercise, which is a commendable feature of the statutory design. Entry 16 then lists "certain satellite-based services such as: Teleports, Television channels, Direct To Home, Headend In The Sky, Digital Satellite News Gathering, Very Small Aperture Terminal, Global Mobile Personal Communication by Satellites, National Long Distance, International Long Distance, Mobile Satellite Service in L and S bands".[30]

Two further provisions demonstrate the foresight with which the statute was drafted, and they are central to the argument of this paper. Section 7(1) permits the Central Government to assign spectrum already held by a primary assignee to secondary assignees, where this does not cause harmful interference. Section 7(2) permits termination of an assignment, after a hearing, where the spectrum "has remained unutilised for insufficient reasons for such period as may be prescribed".[31] The statute therefore already contains the instruments through which assignment can be linked to use, which is precisely the design that the international regime reflects.

The pricing exercise has proceeded through careful stages, beginning with TRAI's recommendations of May 2025 on administrative assignment for up to five years, extendable by two. Those recommendations proposed a charge of 4% of AGR and a minimum annual charge of ₹3,500 per MHz, together with an urban per-subscriber charge for NGSO fixed-satellite services.[32] Terrestrial operators, through the Cellular Operators Association of India, argued that satellite providers would enter overlapping urban markets without comparable financial obligations. However, the Government rightly declined to treat shared satellite spectrum as equivalent to exclusive terrestrial spectrum, since the two differ in their legal and technical character.[33] The DoT's back-reference of November 2025 sought a 5% levy and reportedly replaced a proposed subscriber cap with capacity-based limits requiring fresh

[30] Telecommunications Act, No. 44 of 2023, §§ 4(1), 4(4), 4(5), sch. 1, entry 16 (India).
[31] Telecommunications Act, No. 44 of 2023, § 7 (India).
[32] Press Release, Press Info. Bureau, *TRAI Releases Recommendations on "Terms and Conditions for the Assignment of Spectrum for Certain Satellite-Based Commercial Communication Services"* (May 9, 2025), https://www.pib.gov.in/PressReleasePage.aspx?PRID=2127866.
[33] *Satcom Framework: TRAI's Recommendations on Spectrum Assignment for Satellite Services*, tele.net (June 13, 2025), https://tele.net.in/satcom-framework-trais-recommendations-on-spectrum-assignment-for-satellite-services/.

approval for expansion. That design choice ties the scale of an operator's permission to the capacity it actually uses, and it thereby anticipates the logic of the ITU milestones.[34]

In June 2026, the DoT published the draft Telecommunications (Spectrum Assignment by Administrative Process) Rules 2026 for consultation, addressing geostationary **['GSO']** services first. These include teleports, direct-to-home and very small aperture terminal **['VSAT']** services, with AGR-linked charges graded by data rate, while NGSO broadband is settled through the DCC process.[35] The Broadband India Forum has requested that GMPCS, which is expressly listed in entry 16, also be reflected in the Schedule and Annexures of the Rules. The phased approach that the draft adopts leaves ample room for that to be done as the NGSO terms are finalised, and it is a sensible way of sequencing the exercise.[36] TRAI's consultation of April 2026 on the authorisation of satellite communication networks likewise shows that authorisation is being developed in parallel with pricing.[37]

On perusing the trajectory of the exercise, its focus so far has understandably been on price, which is the first question that any assignment framework must answer. It is also the question on which operators most needed certainty before committing capital to the Indian market, and the Government has now supplied that certainty. TRAI's design had included a per-MHz minimum charge, the one component that varied with the quantity of spectrum, although reports differ on whether the DCC retained it.[38] With the price now largely settled, the next phase of rule-making offers the natural occasion to carry forward the use-based logic of the capacity-based limits. This leaves the question that the rest of this paper addresses: what,

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[34] *Satcom Rules Set for Overhaul: No User Cap, Spectrum Fee May Rise to 5% AGR*, Outlook Bus. (Nov. 20, 2025), https://www.outlookbusiness.com/corporate/satcom-rules-set-for-overhaul-no-user-cap-spectrum-fee-may-rise-to-5-agr.

[35] *Government Proposes Rules for Assignment of Spectrum Through Administrative Process Under the Telecom Act*, Mondaq (June 2026), https://www.mondaq.com/india/broadcasting-film-tv-radio/1820412/government-proposes-rules-for-assignment-of-spectrum-through-administrative-process-under-the-telecom-act; *Draft Spectrum Rules Leave Starlink and Rival Broadband Operators Out*, MediaNama (June 2026), https://www.medianama.com/2026/06/223-dot-draft-spectrum-rules-leave-starlink-rival-broadband-operators-out/.

[36] *GMPCS Omission Flagged in DoT's Draft Spectrum Assignment Rules, Correction Sought*, Commc'ns Today (June 2026), https://www.communicationstoday.co.in/gmpcs-omission-flagged-in-dots-draft-spectrum-assignment-rules-correction-sought/.

[37] *TRAI Consultation on Satcom Spectrum and Pricing*, MediaNama (Apr. 2026), https://www.medianama.com/2026/04/223-trai-satellite-communication-framework-2026/.

[38] Gulveen Aulakh, *DoT Clears the Decks for Satellite Broadband Services in India*, Bus. Standard (Sept. 8, 2026), https://www.business-standard.com/industry/news/trai-clears-the-decks-for-satellite-broadband-services-in-india-126090801317_1.html (reporting that no minimum charge was approved); *cf. Starlink, Jio Await Cabinet Nod After DCC Spectrum Approval*, MediaNama (Sept. 2026), https://www.medianama.com/2026/09/223-starlink-oneweb-jio-dcc-spectrum-approval/ (reporting that the ₹3,500 per MHz floor was retained). The final Cabinet decision will be determinative.

beyond payment, should an administrative assignment of satellite spectrum require of the operator that receives it?

B. The 2G Jurisprudence: A Terrestrial Lens on a Shared Resource

The SC's catena of decisions on natural resources forms the constitutional backdrop to this exercise, and it is here that the uncertainty surrounding satellite spectrum originates. In the 2G judgment, the SC struck down the first-come, first-served policy under which spectrum had been allotted along with licences. It observed that "a duly publicised auction conducted fairly and impartially is perhaps the best method" for discharging the State's burden when alienating natural resources.[39] The observation was made in the context of terrestrial access spectrum bundled with licences, but its breadth has since been read as a general preference applicable to all spectrum. This reading has taken hold even though the Court neither heard argument on satellite spectrum nor examined the international regime that governs it.

The Constitution Bench that answered the Presidential Reference later held that auction is not a constitutional requirement for the alienation of all natural resources. It also recognised that revenue maximisation may not always be the best way to serve the common good, which was a welcome correction of the broader reading of 2G. However, the Bench left spectrum in an anomalous position, since the Union had stated that it was not questioning the 2G directions "in so far as the allocation of spectrum is concerned".[40] The Bench accordingly freed other natural resources from a mandatory auction rule, but left the most internationally regulated resource of all subject to the most rigid domestic reading. It is respectfully submitted that the Reference was the natural occasion to recognise that spectrum is not a homogeneous resource. A principle framed for exclusive terrestrial frequencies cannot simply be transposed to frequencies that are shared and coordinated at the ITU, and the Bench did not examine that distinction.

The Registry's refusal in April 2024 to receive the Union's application for clarification compounds the difficulty, and it deserves closer scrutiny than it has received. The Registrar invoked Order XV Rule 5 of the Supreme Court Rules 2013, which permits refusal of a petition that discloses no reasonable cause or is frivolous. The application was characterised as a belated

[39] Ctr. for Pub. Interest Litig. v. Union of India, (2012) 3 S.C.C. 1, ¶ 96 (India).
[40] In re Natural Res. Allocation, Special Reference No. 1 of 2012, (2012) 10 S.C.C. 1, ¶¶ 35, 116, 148 (India).

review in the guise of clarification, and it was not placed before a Bench for consideration.[41] With respect, an application asking whether a judgment on terrestrial licences extends to space communication raised a question of genuine public importance. Its disposal at the administrative stage has meant that the SC has not yet had the occasion to apply its own reasoning to satellite spectrum.

It is pertinent to note that the language of Section 4(1) reflects the SC's own jurisprudence, since it describes the Central Government as "the owner of the spectrum on behalf of the people". That description echoes the treatment of spectrum as a natural resource held in trust, and the earlier recognition that airwaves are public property to be regulated in the public interest.[42] Parliament has therefore not sought to escape the public trust framework but has adopted it expressly, and in doing so it has aligned the statute with the Court's own premises. The service of the trust's beneficiaries through efficient and equitable use of the spectrum is precisely what the administrative model is designed to secure.

The question now arises whether Section 4(4) read with entry 16 would withstand a challenge founded on 2G, and there are strong reasons to conclude that it would. Firstly, 2G invalidated an executive policy that had been applied arbitrarily, whereas Section 4(4) is a legislative choice carrying its own statutory criteria and parliamentary oversight. Secondly, the reasoning in 2G proceeded on the scarcity and exclusivity of terrestrial access spectrum, whereas the Reference made the permissible method depend on the nature of the resource. Satellite spectrum differs from terrestrial spectrum on precisely the features that made auction attractive in 2G, and the legislative choice follows that difference. Thirdly, the administrative model gives effect to an international regime that India has accepted, and Article 51(c) of the Constitution directs the State to foster respect for treaty obligations.[43]

The arguments on the other side deserve consideration, but they do not displace this conclusion when examined against the statutory scheme. Legislation is not immune from Article 14 review, and the SC has confirmed that manifest arbitrariness is a ground on which a statute

[41] *"Misconceived": Supreme Court Registry Rejects Centre's Application to Clarify 2G Case Verdict for Administrative Allotment of Spectrum*, LiveLaw (May 1, 2024), https://www.livelaw.in/top-stories/supreme-court-registry-rejects-centres-application-to-clarify-2g-case-verdict-administrative-allotment-spectrum-256687; Supreme Court Rules, 2013, Order XV, Rule 5 (India).
[42] Sec'y, Ministry of Info. & Broad. v. Cricket Ass'n of Bengal, (1995) 2 S.C.C. 161, ¶ 201 (India); Ctr. for Pub. Interest Litig. v. Union of India, (2012) 3 S.C.C. 1 (India).
[43] India Const. art. 51(c).

may be struck down.[44] The level playing field argument advanced by terrestrial operators also has some surface appeal where satellite and terrestrial providers compete for the same urban customers. The coal block judgment further shows that an administrative method of allocation will be tested for objective criteria, transparency and a fair process between competing applicants.[45] Therefore, the stronger reading is that the mode of assignment chosen by Parliament rests on a firm constitutional footing, whereas the coal block standard is directed at process. The Government has developed its terms through an open and consultative process, which is itself the best evidence of the fairness that the coal block judgment demands.

C. A Domestic Template: IN-SPACe's Norms on Orbital Resources

In this backdrop, it is interesting to compare the telecom side of India's regime with its space side, which the Government has also developed with considerable care. The Indian Space Policy 2023 confirmed IN-SPACe as the authorising body for non-governmental space activities, and IN-SPACe issued its Norms, Guidelines and Procedures **['NGP']** in May 2024.[46] The NGP define the "Indian Administration" for ITU purposes as the Wireless Planning and Coordination Wing of the DoT, which keeps both sides of the regime connected. They permit Indian entities to make fresh ITU filings or to use unutilised Indian filings, with access to the latter decided through an Announcement of Opportunity. Significantly, such an allocation is "liable for cancellation/revocation in the absence of satisfactory progress towards fulfilment of BIU/BBIU within its validity", and the resource is then offered to others. Foreign satellites require IN-SPACe authorisation to provide capacity in India, valid for their declared operational life or five years, whichever is earlier, since 1 April 2025.[47]

The significance of the NGP is that the Government has already developed, on the space side, a tested method for treating orbital and spectrum resources as scarce. That method allocates resources competitively where demand exceeds supply and reallocates them where they are not brought into use, which is exactly the discipline the ITU applies internationally. The telecom side, having now settled its price, is well placed to draw on the same method in the next phase of its rule-making. Since both halves of the regime regulate the same physical resource from

[44] Shayara Bano v. Union of India, (2017) 9 S.C.C. 1 (India).
[45] Manohar Lal Sharma v. Principal Sec'y, (2014) 9 S.C.C. 516 (India).
[46] Dep't of Space, Gov't of India, Indian Space Policy 2023 (2023).
[47] Indian Nat'l Space Promotion & Authorisation Ctr., Norms, Guidelines and Procedures for Implementation of Indian Space Policy-2023 in Respect of Authorization of Space Activities ch. IV, §§ I(c), III(k), (o); ch. VI, § I(c), (k), (m) (2024).

two ends, a common approach would give operators a single and coherent set of expectations.

IV. THE GOVERNMENT'S FRAMEWORK AND ITS NATURAL EXTENSIONS

A. The AGR Levy and a Spectrum-Linked Complement

The first area concerns price, where the AGR levy chosen by the Government has evident advantages, since it is simple to administer and scales with commercial success. It also avoids imposing a heavy fixed cost at the stage of market entry, which is consistent with the DoT's sound emphasis on implementation simplicity. By design, an AGR levy does not vary with the quantity of spectrum a system occupies, the number of satellites it operates or the efficiency of its use. Article 44(1) directs Member States to limit spectrum use to the minimum essential, whereas Article 44(2) requires that use to be efficient and economical.[48]

For instance, consider two NGSO systems earning identical revenue in India, the first using a narrow block of Ka-band spectrum with advanced beam-forming. The second spreads its traffic across a much wider block, but under a flat AGR charge both would pay the same amount to the exchequer. The second system nevertheless imposes a considerably greater coordination burden on every other system in the band, which a revenue share is not intended to capture. A complementary component could capture that burden without disturbing the simplicity that the Government has rightly prioritised in its present design.

The AGR base also benefits from clarity, particularly after the SC's decision of 2019 adopted an expansive reading of the revenue on which licence fees are levied. The liabilities that followed from that reading placed severe strain on the terrestrial industry, and the Government had to step in with a reform package.[49] Satellite operators with diversified revenue streams, including enterprise, maritime and aviation services, will therefore benefit from clear rules on what forms part of the base. This would ensure that the Court's broad construction in the terrestrial context is not carried over to a sector for which it was never designed. The comparison with terrestrial operators is also less direct than the level playing field argument assumes, and the Government's own reforms explain why. Spectrum acquired in auctions has not attracted a spectrum usage charge since the reforms of September 2021, and terrestrial

[48] Constitution of the International Telecommunication Union art. 44(1), (2), Dec. 22, 1992, S. Treaty Doc. No. 104-34, 1825 U.N.T.S. 143.

[49] Union of India v. Ass'n of Unified Telecom Serv. Providers of India, (2020) 3 S.C.C. 525 (India); Press Release, Press Info. Bureau, *Cabinet Approves Major Structural and Process Reforms in Telecom Sector* (Sept. 15, 2021).

operators instead pay an upfront price discovered at auction. A comparison between an upfront price for exclusive spectrum and a revenue share for shared spectrum is not a comparison of like with like, and the Government was right to reject it.

A complementary model is one that the administrative approach already permits, and it has been refined over two decades of practice in the United Kingdom. Administrative incentive pricing **['AIP']**, developed following the Cave Review, sets charges for administratively assigned spectrum by reference to its opportunity cost.[50] The intuition is the one Coase advanced more than half a century ago, namely that a resource allocated without a price will tend to be used without regard to its cost to others.[51] AIP answers that concern without requiring an auction, and it is therefore entirely consistent with the method that Parliament has chosen. A hybrid charge combining the Government's revenue share with a per-MHz component calibrated to the band would build on the existing design, adding the scarcity signal that Article 44 contemplates.

B. Linking Assignment to Deployment

The second area concerns deployment, where Resolution 35 binds the notifying administration of an NGSO system at the ITU but operates independently of India's domestic assignment. The terms approved so far are principally and appropriately concerned with price, and they leave the link between assignment and deployment to be addressed in the Rules. Section 7(2) of the Telecom Act permits termination for non-utilisation "for such period as may be prescribed", which gives the Government a ready instrument for this purpose.[52] Parliament has thoughtfully placed that instrument at the Government's disposal, and the next phase of rule-making offers a natural occasion to use it.

This matters because coordination burdens are borne in real time, as can be seen by considering two constellations seeking assignment in the same band. The first has deployed most of its satellites and can serve India immediately, whereas the second holds filings with an earlier date of receipt but is deploying slowly. Absent a deployment condition, both would receive assignments on the same terms, and the second would pay almost nothing beyond any minimum charge. A levy on revenue is a levy on nothing when there is no revenue, but the first

[50] Martin Cave, Review of Radio Spectrum Management: An Independent Review for the Department of Trade and Industry and HM Treasury (2002); Ofcom, SRSP: The Revised Framework for Spectrum Pricing (2010).
[51] R.H. Coase, *The Federal Communications Commission*, 2 J.L. & Econ. 1 (1959).
[52] Telecommunications Act, No. 44 of 2023, § 7(2) (India).

system would nevertheless have to coordinate as though the second's full constellation were in orbit. Continuing from the example, if the second system misses its ITU milestones, its recorded characteristics will eventually be reduced at the ITU. Its Indian assignment would, however, continue until expiry, and a deployment condition would allow the two regimes to reinforce each other.

The NGP already supply the template, since IN-SPACe conditions the allocation of unutilised Indian filings on satisfactory progress towards bringing them into use.[53] The DoT could achieve the same result on the spectrum side by prescribing, under Section 7(2), that an assignment lapses where Resolution 35 milestones are missed. It could equally provide for a reduction where a system fails to deploy a specified proportion of its declared capacity over India within a defined period. Either course would simply extend to spectrum the discipline that the Government already applies, with evident success, to orbital resources.

C. A Default Framework for NGSO Sharing

The third area concerns sharing, where TRAI's recommendation that authorised entities coordinate in good faith faithfully reflects the international position.[54] The RR impose equivalent power flux-density **['EPFD']** limits to protect GSO networks from NGSO systems, which may neither cause unacceptable interference to GSO networks nor claim protection from them. The RR do not, however, provide a default rule for sharing between NGSO systems in the fixed-satellite bands, and they leave such sharing to coordination.[55] Where coordination between NGSO systems fails, a published default rule would allow the DoT to resolve disputes predictably rather than case by case. Such a rule would benefit later entrants and incumbents alike, since each would know in advance how interference is to be managed.

The experience of the United States is instructive, since the Federal Communications Commission **['FCC']** applies a default band-splitting procedure between NGSO systems. That procedure applies when interference between systems in the same processing round exceeds a specified threshold and coordination has not been achieved.[56] In 2023, the FCC confined that

[53] Indian Nat'l Space Promotion & Authorisation Ctr., Norms, Guidelines and Procedures for Implementation of Indian Space Policy-2023 in Respect of Authorization of Space Activities ch. VI, § I(k) (2024).
[54] Press Release, Press Info. Bureau, *TRAI Releases Recommendations on "Terms and Conditions for the Assignment of Spectrum for Certain Satellite-Based Commercial Communication Services"* (May 9, 2025), https://www.pib.gov.in/PressReleasePage.aspx?PRID=2127866.
[55] Int'l Telecomm. Union [ITU], *Radio Regulations* art. 22, No. 22.2 (2024 ed.).
[56] 47 C.F.R. § 25.261 (2025).

default to systems in the same processing round and gave earlier-round systems protection from later-round systems for ten years. It also required later-round systems to demonstrate compatibility through a degraded throughput methodology, while obliging all NGSO operators to coordinate in good faith.[57] In April 2026, the FCC replaced its domestic EPFD limits in the Ku-band and Ka-band downlinks with a performance-based framework for GSO protection. It left its cross-border obligations under Article 22 of the RR unchanged, which shows that domestic innovation can coexist with international commitments.[58] At the ITU, WRC-23 did not revise the Article 22 limits and instead left the matter to studies, and operators remain divided on whether revision can come before 2031.[59]

The question for India is not whether to copy the FCC's rules, which are built around a processing-round system, but what form a default rule suited to Indian conditions should take. India has a direct stake in the GSO side of the EPFD debate, given its own geostationary fleet and the dependence of direct-to-home and VSAT services on GSO capacity. It also has a growing stake in the NGSO side, both as a large market and as a prospective operator of its own constellations. A framework combining a time-bound duty to coordinate, a default division of spectrum during interference events and a DoT determination where coordination fails would give content to TRAI's standard. It would also strengthen India's hand as it prepares its position on the Article 22 question during the WRC-27 cycle.

D. Equitable Access at the Point of Market Access

The fourth area concerns equitable access, since Article 44(2) directs attention to the special needs of developing countries, an objective that India is well placed to advance.[60] India's ability to advance that objective at the ITU is limited, but its ability to do so at home is substantial, because every foreign system must seek Indian permission. The first application of the principle concerns coordination, since Indian entities making fresh NGSO filings under the NGP will need to coordinate with earlier foreign filers. An assignment condition requiring authorised operators to coordinate in good faith with Indian filings, within defined timelines,

[57] Revising Spectrum Sharing Rules for Non-Geostationary Orbit, Fixed-Satellite Service Systems, 88 Fed. Reg. 39,783 (June 20, 2023) (codified at 47 C.F.R. pt. 25).
[58] Modernizing Spectrum Sharing for Satellite Broadband, Report and Order, FCC 26-26 (Apr. 30, 2026); *FCC Modernizes Satellite Spectrum-Sharing Rules*, DLA Piper (May 2026), https://www.dlapiper.com/en-us/insights/publications/2026/05/fcc-modernizes-satellite-spectrum-sharing-rules.
[59] Jason Rainbow, *Satellite Transmission Power Battle Drags on After WRC-23*, SpaceNews (Dec. 2023), https://spacenews.com/satellite-transmission-power-battle-drags-on-after-wrc-23/.
[60] Constitution of the International Telecommunication Union art. 44(2), Dec. 22, 1992, S. Treaty Doc. No. 104-34, 1825 U.N.T.S. 143.

would give practical effect to Article 44(2).

The second application concerns service, where the DCC's approval already recognises the equity objective through a lower 4% rate for rural and remote areas.[61] This is a commendable choice that encourages rural service by reducing its cost, and it demonstrates that the Government has kept the equity dimension firmly in view. A complementary condition linking part of the assignment to capacity made available over underserved regions would carry the same objective into the terms themselves. These conditions are distinct from the security conditions in the framework, including gateway location, lawful interception and security clearance before interconnection. Those security conditions serve important national objectives of their own, and the Government has rightly insisted upon them before any commercial launch. Any condition of the kind proposed here would also need to be examined against India's trade commitments, a question that lies beyond the scope of this paper.

E. The Next Boundary: Direct-to-Device Services

The four areas identified above will become more significant as satellite services move into bands that India currently assigns to terrestrial operators by auction. WRC-27 will consider possible allocations to the mobile-satellite service between 694/698 MHz and 2.7 GHz for direct connectivity between satellites and ordinary handsets.[62] These are, in large part, the bands in which Indian terrestrial operators hold spectrum acquired at auction, which gives the question a distinctly Indian dimension. Entry 16 of the First Schedule refers to mobile satellite service in the L and S bands, but it is doubtful whether it extends to spectrum already auctioned to terrestrial operators.

The difficulty is that neither mode of assignment fits cleanly, because an auction of the satellite component would require the Union to sell the same frequencies a second time. Administrative assignment of those frequencies to a satellite operator would, on the other hand, revive the level playing field objection in its strongest form. The foresight of the Telecom Act is again evident here, since Section 7(1) permits spectrum held by a primary assignee to be assigned to

[61] Gulveen Aulakh, *DoT Clears the Decks for Satellite Broadband Services in India*, Bus. Standard (Sept. 8, 2026), https://www.business-standard.com/industry/news/trai-clears-the-decks-for-satellite-broadband-services-in-india-126090801317_1.html.

[62] *WRC 2027 Agenda Item Details*, Transfinite, https://www.transfinite.com/content/wrc2027list (last visited Oct. 1, 2026) (listing agenda item 1.13).

secondary assignees.[63] A satellite operator partnering with a terrestrial operator could accordingly be made a secondary assignee of the latter's auctioned spectrum on prescribed terms. That route would work best if the Rules carry forward conditions on interference, a sharing rule between the two components and a price reflecting the quantity of spectrum used. The European Commission's recent proposal for the 2 GHz band expressly anticipates direct-to-device services, which suggests that India is well placed to settle its approach before WRC-27.[64]

V. LEARNING FROM ELSEWHERE: THE UNITED STATES, BRAZIL AND THE EUROPEAN UNION

A. The United States: Prohibition of Auction, Discipline by Rule

The United States presents the clearest example of a jurisdiction that combines non-market assignment with detailed use-based conditions, and it therefore validates the Indian choice. The ORBIT Act provision already discussed prohibits the FCC from assigning by competitive bidding the spectrum used for international or global satellite services.[65] The absence of an auction has not produced an absence of conditions, because NGSO licensees must launch 50% of their authorised satellites within six years. They must complete deployment within nine years, failing which authority for the satellites not then in orbit terminates.[66] Licensees must also post a bond within thirty days of grant, from which they are released only on a finding that the milestones have been met.[67] Together with the sharing rules described in Part IV, the American experience shows that the choice against auction is usually accompanied by obligations tied to actual use.

B. Brazil: From Bidding to Conditional Administrative Grant

Brazil offers a direct example of a jurisdiction that moved away from competitive bidding for satellite rights, much as India has chosen to do through the Telecom Act. Before 2019, the right to exploit satellites in Brazil was granted through bidding for a fifteen-year term that could be

[63] Telecommunications Act, No. 44 of 2023, § 7(1) (India).
[64] Press Release, Eur. Comm'n, *Commission Proposes New Authorisation for Mobile Satellite Services for EU's Resilience and Competitiveness* (May 27, 2026), https://digital-strategy.ec.europa.eu/en/news/commission-proposes-new-authorisation-mobile-satellite-services-eus-resilience-and-competitiveness.
[65] 47 U.S.C. § 765f (2018).
[66] 47 C.F.R. §§ 25.164(b), 25.161(a)(2) (2025).
[67] 47 C.F.R. § 25.165 (2025).

renewed only once. Law 13.879/2019 eliminated the bidding requirement and provided for rights to be granted through an administrative process organised by the Agência Nacional de Telecomunicações **['ANATEL']**. The term may now be extended successively provided the obligations assumed are fulfilled, and the payment may be converted into investment commitments under ANATEL's rules.[68] The Brazilian model is significant because it conditions renewal on performance rather than time, and treats the price of the grant as a policy instrument rather than a revenue stream alone. It is a direction that India's own framework, with its emphasis on inclusion and investment, is well placed to take.

C. The European Union: Comparative Selection with Milestones

The European Union selected operators for mobile satellite services in the 2 GHz band through a comparative selection procedure, which required technical and commercial readiness rather than bids.[69] With those rights expiring in May 2027, the European Commission proposed in May 2026 a regulation for an authorisation valid across the European Union. The proposal retains comparative selection while adding criteria of security, resilience and Union added value, and it requires applicants to demonstrate concrete milestones. These include ITU filings, satellite manufacturing, launch agreements, gateway earth stations and continuous provision of service, which together form a demanding readiness test.[70] The European model shows how a selection process can be designed without resorting to auction, and its emphasis on security closely parallels the priority that the Indian Government has given to security clearances.

D. The Common Thread

The parallel is that none of these jurisdictions auctions satellite spectrum for international systems, and each attaches to its non-market assignment conditions directed at actual use. The United States relies on milestones, bonds and default sharing rules, whereas Brazil relies on performance-based renewal and the European Union on comparative selection with

[68] Lei No. 13.879, de 3 de Outubro de 2019, Diário Oficial da União [D.O.U.] de 4.10.2019 (Braz.); *Telecoms Series: Satellites Regulations*, Azevedo Sette Advogados, https://www.azevedosette.com.br/news/en/telecoms-series-satellites-regulations/5954 (last visited Oct. 1, 2026).

[69] Decision No. 626/2008/EC of the European Parliament and of the Council of 30 June 2008 on the Selection and Authorisation of Systems Providing Mobile Satellite Services (MSS), 2008 O.J. (L 172) 15.

[70] Press Release, Eur. Comm'n, *Commission Proposes New Authorisation for Mobile Satellite Services for EU's Resilience and Competitiveness* (May 27, 2026), https://digital-strategy.ec.europa.eu/en/news/commission-proposes-new-authorisation-mobile-satellite-services-eus-resilience-and-competitiveness; *More EU-Level Steering, New Selection Criteria, New Obligations: The EU Proposal on the 2 GHz MSS Band and Its Implications from 2027 Onwards*, Noerr (2026), https://www.noerr.com/en/insights/more-eu-level-steering-new-selection-criteria-new-obligations-the-euproposal-on-the-2-ghz-mss-band-and-its-implications-from-2027-onwards-.

deployment milestones. This confirms that India's choice of administrative assignment sits firmly within international practice, exactly as the Minister of Communications observed when he noted its worldwide use.[71] The comparative material equally shows that the use-based instruments the Government has already begun to deploy are the very ones on which mature regimes rely.

VI. CONCLUSION AND WAY FORWARD

The discussion in this paper shows that the question of auction versus administrative assignment was never the real question for satellite spectrum in India, whatever the prominence it has enjoyed. Parliament answered it wisely in Section 4(4), the international regime supports the answer and comparative practice from three major jurisdictions confirms it. The Government's framework gives effect to the objectives for which the international regime adopted non-market assignment, and the pricing phase has given it a simple and administrable charge. It has also given the framework a concessional rural rate and capacity-based limits that already link permission to use, which are features that mature regimes elsewhere share. The only real uncertainty lies in the judicial sphere, where the 2G judgment applied a terrestrial lens to spectrum as a whole and the Reference left spectrum outside its liberalising reasoning. The Registry's refusal in 2024 then denied the SC the occasion to address satellite spectrum directly, and that question therefore remains open for no fault of the Government.

Six measures would allow the Government to carry its framework forward on the foundations it has already laid, each building on an instrument it already holds. Firstly, the Spectrum Assignment Rules could cover GMPCS and NGSO services expressly, with the terms approved by the DCC placed in the Rules as published and objective criteria. Secondly, the DoT may prescribe under Section 7(2) that an assignment lapses where the relevant system misses its Resolution 35 milestones or fails to deploy capacity over India. Thirdly, the charge could combine the AGR levy with a per-MHz component calibrated on AIP principles, so that the price conveys the opportunity cost of the spectrum. Fourthly, the Rules could contain a default mechanism for sharing between NGSO systems, comprising a time-bound coordination duty, a default division of spectrum and a DoT determination. Fifthly, the DoT and IN-SPACe could harmonise their procedures, with a comparative selection mechanism modelled on the NGP

[71] Manish Singh & Jagmeet Singh, *India Backs Musk in Satellite Spectrum Allocation Row*, TechCrunch (Oct. 15, 2024), https://techcrunch.com/2024/10/15/india-backs-musk-in-satellite-spectrum-allocation-row.

available where demand in a band exceeds coordinable capacity. Sixthly, the Rules could prescribe the terms on which a satellite operator may become a secondary assignee under Section 7(1), so that the framework is ready for direct-to-device services.

These proposals are not without cost, since milestone conditions may deter smaller entrants and a per-MHz charge requires a valuation exercise of some complexity. Default sharing rules may also be resisted by incumbents that have invested on the assumption of the present framework, and the Government will need to weigh those interests carefully. Whether the SC would accept that a fully specified administrative regime answers the concerns expressed in 2G remains untested, since the question has never been placed before it. It is to be hoped that the Court, when the occasion arises, will recognise that a principle framed for exclusive terrestrial frequencies does not govern a resource shared internationally. The central takeaway is that India has made the right choice of method, and that the strength of its regime will rest on what the assignment requires of those who receive it. The Government is well placed to answer that question as Cabinet approval and the final Rules follow, and India's preparations for WRC-27 offer an occasion to carry the same position into the international forum.